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7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 938-A

13 **ROBERT CHARLES HUTTON**  
725 Cemetery Lane  
Aspen, CO 81611

**A C C U S A T I O N**

14 **Land Surveyor License No. L 5454**

15 Respondent.

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17  
18 Complainant alleges:

19 **PARTIES**

20 1. David E. Brown (Complainant) brings this Accusation solely in his official capacity  
21 as the Executive Officer of the Board for Professional Engineers and Land Surveyors (Board),  
22 Department of Consumer Affairs.

23 2. On or about March 16, 1984, the Board issued Land Surveyor License Number L  
24 5454 to Robert Charles Hutton (Respondent). The Land Surveyor License was in full force and  
25 effect at all times relevant to the charges brought herein and will expire on September 30, 2010,  
26 unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 8780 of the Code states, in relevant part:

“The board may receive and investigate complaints against licensed land surveyors and registered civil engineers, and make findings thereon.

“By a majority vote, the board may reprove, suspend for a period not to exceed two years, or revoke the license or certificate of any licensed land surveyor or registered civil engineer, respectively, licensed under this chapter or registered under the provisions of Chapter 7 (commencing with Section 6700), whom it finds to be guilty of:

...

“(d) Any violation of any provision of this chapter or of any other law relating to or involving the practice of land surveying.

...”

5. Section 8762 of the Code provides, in relevant part:

“(a) Except as provided in subdivision (b), after making a field survey in conformity with the practice of land surveying, the licensed surveyor or licensed civil engineer may file with the county surveyor in the county in which the field survey was made, a record of the survey.

“(b) Notwithstanding subdivision (a), after making a field survey in conformity with the practice of land surveying, the licensed land surveyor or licensed civil engineer shall file with the county surveyor in the county in which the field survey was made a record of the survey relating to land boundaries or property lines, if the field survey discloses any of the following:

...

“(5) The points or lines set during the performance of a field survey of any parcel described in any deed or other instrument of title recorded in the county recorder’s office are not shown on any subdivision map, official map, or record of survey.

...”

6. California Code of Regulations, title 16, section 473.3(b), states: "Failure of the cited person to abate the violation or to pay the fine within the time allowed is grounds for suspension or revocation of the cited person's license."

7. Section 118, subdivision (b), of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued, or reinstated.

## COSTS

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

### FIRST CAUSE FOR DISCIPLINE

**(Failure to File a Record of Survey)**

9. Respondent is subject to disciplinary action under section 8780, subdivision (d), of the Code in that he violated section 8762, subdivision (b)(5), of the Code by failing to file a record of survey for a monument he set in San Mateo County. The circumstances of this conduct are as follows:

a. In or about September 2004, Michael T. Turnrose, a professional land surveyor, filed a record of survey for "The Lands of Ray" on San Carlos Avenue in San Mateo County, California. The survey depicts a monument containing Respondent's license number that does not appear on any subdivision map, official map, or other record of survey. Respondent failed to file with the San Mateo County Surveyor a record of his field survey relating to the monument.

## SECOND CAUSE FOR DISCIPLINE

**(Failure to Comply with Order of Abatement)**

10. Respondent is subject to disciplinary action under California Code of Regulations, title 16, section 473.3(b), in that he failed to comply with an order from the Board that he file records of survey for two surveys he performed. The circumstances of this conduct are as follows:

1 a. In or about January 1991, Respondent performed a survey of "The Lands of Estrada" in  
2 San Mateo County. Although Respondent initially filed a record of survey for this survey, it was  
3 returned because it showed discrepancies with existing records. The county asked Respondent to  
4 submit a corrected record of survey, which he failed to do. In or about August 1996, Respondent  
5 performed a survey of "The Lands of Mohr and the Lands of Mortensen" in San Mateo County.  
6 Although Respondent set monuments for this survey, he did not file a record of survey with the  
7 county. On or about April 30, 1998, the Board issued a citation to Respondent for failing to file  
8 records of survey for these two surveys. The citation provides, in relevant part: "The Board  
9 hereby orders you to cease and desist from violating Business and Professions Code section(s)  
10 8762. To accomplish this you must file Records of Survey for the two surveys you performed  
11 that are identified below in the Cause for Citation. The Records of Survey must be filed with the  
12 County of San Mateo, Department of Public Works *within 30 days.*" (emphasis in original).  
13 Respondent failed to file records of survey for these two surveys.

#### 14 PRAYER

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
16 and that following the hearing, the Board for Professional Engineers and Land Surveyors issue a  
17 decision:

18 1. Revoking or suspending Land Surveyor License Number L 5454 issued to Robert  
19 Charles Hutton;

20 2. Ordering Robert Charles Hutton to pay the Board the reasonable costs of the  
21 investigation and enforcement of this case pursuant to Business and Professions Code section  
22 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED: July 9, 2010

Original Signed

DAVID E. BROWN  
Executive Officer  
Board for Professional Engineers and  
Land Surveyors  
Department of Consumer Affairs  
State of California  
Complainant

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